

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert G. & Barbara K. Joens,
Appellants,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 14-07-0207
Parcel No. 8712-25-306-007

On January 5, 2015, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2014) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Henry Edsill of the Law Offices of C. Kevin McCrindle, Waterloo, represented Robert G. and Barbara K. Joens. Assistant Black Hawk County Attorney David Mason represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Robert and Barbara Joens are the owners of a residential property located at 302 Barberry Street, La Porte City, Iowa. According to the record, the property was built in 1977 and is a one-story, frame dwelling with 1611 square feet of living area; a full, unfinished basement; a deck and an open porch; as well as a 330 square-foot attached garage. The property is listed in normal condition with average quality construction grade (4+10). The site is 0.200 acres. The real estate was valued at \$162,110, representing \$14,550 in land value and \$147,560 in improvement value, as of January 1, 2014. This was the same as the 2013 assessment.

The Joenses protested the assessment to the Board of Review on the grounds that the assessment is not equitable as compared to like properties in the taxing jurisdiction; that the property is assessed for more than authorized by law; and that there has been a downward change in value since

the last reassessment under Iowa Code sections 441.37(1)(a)(1)(a-b) and 441.37(1)(a)(2). The Board of Review denied the protest.

The Joenses then appealed to this Board requesting an assessment of \$95,000. We note the only ground available to the Joenses is that there has been a downward change in value because the assessment did not change from the previous year. § 441.37(1)(a)(2).

The record shows the subject property was listed with a realtor for \$132,000 in July 2012, and the listing price was periodically reduced until the Joenses purchased it in September 2013 for \$80,000. (Exhibit 3). According to Robert Joens, it was purchased from an elderly widow who was moving into an out-of-state nursing home and had to sell. We note the sale is listed as a normal, arms-length transaction on the property record card.

Robert Joens testified the flood of 2008 damaged the basement finish and it was removed. He further reported despite having two sump pumps, the property regularly floods each year. Because of this, the furnace is elevated on two cinder blocks and the foundation was damaged by the flooding in 2014. Joens also reports the 345-square-foot, first-floor laundry room has no heating or cooling. This room is listed as one-story addition and considered part of the living area on the property record card. Joens testified that the assessor's staff inspected the interior of the property but did not go into the basement.

Joens submitted an appraisal completed by Clinton C. Cota of Rally Appraisal, LLC, Cedar Falls, Iowa, with an effective date of September 9, 2013. The appraisal was completed for the purchase of the property. Cota completed the sales comparison approach and concluded a fee simple market value of \$95,000 for the subject property. (Exhibit 2).

Cota's appraisal explains that the property's small town location and stable neighborhood area results in low turnover rate and typically sales are over six months old. He noted the subject property is in the flood zone. He further noted that it appeared the property suffered from severe negative

market reaction to water issues in 2008. He used eight sales and one listing most within one mile of the subject in his analysis. Joens also offered web listings for four of the same properties. (Exhibits 5-8). The sales occurred between December 2011 and September 2013 and ranged from \$72,500 to \$127,000.

Address	Age	TSFLA	Sale Date	Sales Price	\$SPSF	Adjusted SP	Notes
Subject	36	1611	13-Sep	\$ 80,000	\$ 49.66		
22 Bruce Ln	54	1582	12-Oct	\$ 120,000	\$ 75.85	\$ 112,555	Normal
410 Iowa St	59	1248	12-Oct	\$ 103,000	\$ 82.53	\$ 100,665	Normal
902 4th St	9	1836	13-Jul	\$ 105,000	\$ 57.19	\$ 84,045	Normal
1006 Hillcrest Blvd	53	1075	13-May	\$ 110,000	\$102.33	\$ 114,483	Estate/gift
1010 Poplar St	39	912	13-Jan	\$ 72,500	\$ 79.50	\$ 84,455	Normal
405 Spruce St	14	1400	11-Dec	\$ 129,000	\$ 92.14	\$ 109,418	REO
709 Commercial St	113	1352	N/A	\$ 96,000		\$ 108,990	Listing
311 Crisman St	62	1637	12-Oct	\$ 82,500	\$ 50.40	\$ 79,037	Normal
912 Mill St	42	2217	13-Jul	\$ 127,000	\$ 57.28	\$ 90,295	Normal

The sales were adjusted for seller concessions, site size, quality, age and condition, basement size and finish, living area, and other amenities. We note the REO sale located at 405 Spruce Street was also adjusted for this sale condition. No adjustment was made for the estate sale at 1006 Hillcrest Boulevard (Exhibit 6) and it was listed as a normal transaction. The 709 Commercial Street listing follows a foreclosure sale. (Exhibit 5). Adjusted sale prices were \$79,037 to \$114,483 with a median of \$100,665, or \$40.73 to \$106.50 per-square-foot. The subject property is assessed well above the range at \$162,110, yet its assessment per square foot is at the upper end of the range at \$100.63 per-square-foot. This evidence may be helpful to establish the 2014 fair market value of the property; however, a downward change claim requires the subject property's 2013 value as well as the 2014 value.

Assessor T.J. Koenigsfeld testified on behalf of the Board of Review. He reported a field adjuster from his office recently inspected the subject property and found no listing errors.

Koenigsfeld expressed his concern with some of the comparable properties used in Cota's appraisal because of their sale conditions.

According to Koenigsfeld, his staff went door-to-door in 2008 to determine flood damage. He testified flooding is common in this area; therefore, his office only adjusts for main level flooding and removes basement finish damaged by floodwater. Koenigsfeld indicated his office typically only adjusts property values in odd-numbered year, and he would re-inspect the property for the 2015 assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may

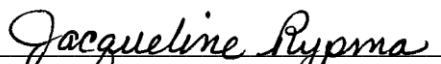
be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

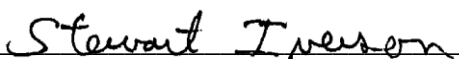
“For even-numbered assessment years, when the property has not been reassessed” a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code § 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). “When this ground is relied upon, the protesting party shall show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the pervious assessment year.” *Id.*; see also *Equitable Life Ins. Co.*, 252 N.W.2d at 450 (holding for a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation). Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.


The evidence failed to show the January 1, 2013, and January 1, 2014, values and falls short of the proof necessary to establish the subject property suffered a downward change in value since the last reassessment.

THE APPEAL BOARD ORDERS the 2014 assessment of the property located at 302 Barberry Street, La Porte City, Iowa, is affirmed.

Dated this 26th day of February 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Henry E. Edsill
Law Offices of C. Kevin McCrindle
PO Box 928
Waterloo, IA 50704-0928
ATTORNEY APPELLANTS

David Mason
Assistant Black Hawk County Attorney
316 E 5th Street
Waterloo, IA 50703
ATTORNEY FOR APPELLEE